

STAFFORD COUNTY SCHOOL BOARD

Agenda Consideration

TOPIC: Regulation 5-38.1 (Sick Leave Bank)
Regulation 5-38.2 (Voluntary Leave Donation Program)

ITEM NO: 4F

PREPARED BY: Stephen L. Trant
Executive Director
Department of Human Resources

MEETING: 5/11/04
ACTION DATE: N/A

ACTION REQUESTED BY THE SUPERINTENDENT: That the School Board receive for information concerns regarding changing Regulations 5-38.1 and 5-38.2 to allow voluntary leave donations during the 20-day elimination period required to receive sick leave bank benefits.

KEY POINTS:

1. The Voluntary Leave Donation Program was implemented July 1, 2003 as a 2-year pilot program. The 2-year pilot period should be honored so that enough data can be collected to determine whether substantive modifications should be made to the regulations in the future. A comprehensive review of the program after a 2-year period is preferable to revisions during the pilot period.
2. The 2-year pilot period was also implemented to allow a study period to determine the administrative time associated with operating the Voluntary Leave Donation Program. The Program, which is administered by the Human Resources Department, was implemented as a staff neutral initiative. Permitting voluntary leave donations during the 20-day elimination period will increase the amount of time spent operating the Program.
3. Best practices data reveals administrative/payroll problems associated with allowing voluntary leave donation during the elimination period.

SCHOOL BOARD GOAL: #6-Introduce programs to enhance employee status, within the school division and the community at large, so that employees are aware of their value to school and community.

FUNDING SOURCE: Not applicable.

AUTHORIZATION REFERENCE: School Board Bylaws 1-33.

PERSONNEL
Sick Leave Bank

A. Generally

The Stafford County School Board has directed the establishment of a sick leave bank for employees provided one-third of full-time and part-time (18.75 hours per week) eligible employees participate in the plan. The sick leave bank shall afford properly enrolled members to use days from the bank for extended absence from work, provided all regulations stated below are followed.

Sick leave bank benefits may not be received for routine maternity leave.

B. Membership and Eligibility

An employee is eligible for membership provided he/she is a full-time or part-time (18.75 hours per week) employee under contract with the School Board and shall not have terminated or discontinued membership in the sick leave bank within the time period set forth in Section C of this regulation. Membership shall be voluntary.

C. Enrollment

An employee eligible for membership may enroll in the sick leave bank by completing the following process:

1. Submit a sick leave bank application to the Executive Director of Human Resources or a designee during the enrollment window of September 15th through October 15th of the contract period. If an employee is hired after October 15th, then the new employee must file the application within the first thirty days of his/her contract period.

2. Donate one day of accumulated sick leave to the bank.

D. Procedures Concerning Use of Sick Leave Bank Entitlement

1. An employee must have been enrolled in the plan for six consecutive months prior to becoming eligible for benefits of the sick leave bank. Should a member decide to discontinue membership in the sick leave bank, and at a later date desire to re-enroll, then that employee cannot reapply until the next enrollment window becomes available. Once re-enrolled, the employee again will have to wait six months prior to becoming eligible for benefits from the sick leave bank.

2. The employee must make application for sick leave bank benefits – it is not automatic.

3. The sick leave bank entitlement may be used when an enrolled employee or family member requiring attendance of the employee is incapacitated by illness or injury which has been certified by a licensed physician. Family members shall include the following: natural parent, adoptive parent, foster parent, stepfather, stepmother, parent-in-law, spouse, natural child, stepchild, adoptive child, foster child, brother, sister,

brother-in-law, sister-in-law, daughter-in-law, son-in-law. Also included are any other relatives who are permanent residents of the same household.

4. Before becoming eligible for sick leave bank benefits, the employee shall have exhausted completely his/her own sick leave, annual leave, and personal leave accumulation. After such exhaustion of his/her own sick leave, annual leave, and personal leave, there shall be a waiting period of 20 working days (elimination period) – without pay – before becoming eligible for sick leave bank benefits. The term “pay” includes, but is not limited to, wages from the employee’s position within the school division; wages earned from active work in a position outside the school division; disability benefits; and monies received from Worker’s Compensation. Should an employee have a Worker’s Compensation case pending during the time period that sick leave bank benefits are received, and the Worker’s Compensation suit is subsequently concluded with a settlement award which includes wages, the employee will be required to reimburse the sick leave bank, in cash, for the portion of sick leave bank benefits received for the same dates to which the settlement award apply. The reimbursement must be received within thirty (30) days of notification to the employee by the school division. The school division, in its sole discretion, reserves the right to resolve any and all disputes involving the meaning of the word “pay.”

During the 20-working day elimination period, employees may continue under the health insurance plan and the group life insurance plan for this period by paying the full premiums in advance. If advance payments are not received, the employee’s health insurance and group life insurance will be terminated. These premiums must be paid before the 20-working day elimination period commences.

5. A licensed physician’s certificate verifying the illness of the employee or of the employee’s family member is required before a sick leave bank member can use his or her sick leave bank entitlement. This certificate is to be submitted to the Executive Director of Human Resources or designee and must include the employee’s name, social security number, and occupation. The licensed physician must indicate: the nature of the illness or disability; that the employee or family member is totally unable to perform any work because of such illness or disability; the date the employee ceased work; and, approximately how long the employee will be unable to return to work. The phrase “any work” refers not only to the employee’s position within the school division, but also to active work in a position outside the school division for which the employee receives wages. A licensed physician’s note indicating that the employee will be permanently unable to return to work will not preclude an employee from receiving sick leave bank benefits. The school division, in its sole discretion, reserves the right to resolve any and all disputes involving the meaning of the phrase “any work.”

6. A maximum of 45 working days from the bank may be utilized in a twelve (12) month period by any one member. Participating members must return to work and must meet the requirements of items 2, 4, and 5 (immediately above) before again becoming eligible to utilize sick leave bank benefits. If the member or related family member suffers a relapse within 30 calendar days due to the same illness or disability which necessitated initial utilization of the bank, the member need not meet another 20-

working day elimination period but must submit an updated licensed physician's certificate.

7. A member utilizing sick leave days from the bank shall not have to replace the days used except as set forth in Section D4.

8. The sick leave bank utilization period shall run concurrently with leave pursuant to the Family and Medical Leave Act as applicable.

9. Exclusions

- a. Medical conditions resulting from the following will be excluded from eligibility for benefits under the Sick Leave Bank:
 - i. any occupationally-related accident or illness for which Worker's Compensation benefits have been awarded or is compensable by Worker's Compensation; or
 - ii. injuries occurring in the course of committing a felony, assault, or any other type of crime.
 - iii. injuries occurring in the course of driving under the influence of alcohol or illegal drugs.
- b. Employees are ineligible to use sick leave bank benefits during the period of any disciplinary suspensions.

E. Sick Leave Bank Administration

1. The members shall be assessed an additional day of sick leave when the balance is reduced to 150 days. Notification of such assessment shall be sent to each member at the time it is determined to be necessary, and the assessment shall be made unless the participant chooses to cease membership in the bank. A member may terminate membership in the bank by notifying the Executive Director of Human Resources, in writing, within 30 calendar days from the date of the assessment notice. A member who has no sick leave to contribute at the time of assessment shall be assessed this day from the first sick leave day subsequently accumulated. A member terminating membership shall not be eligible to re-enroll until the next regular enrollment period as set forth in Section C of this regulation. In addition, a member terminating membership shall not be entitled to any refund of days contributed to the sick leave bank as set forth in Section E4.

2. If the sick leave bank is abolished by the School Board or by legal ruling, the remaining sick leave bank days shall be distributed first to those members drawing from the bank, and then to each member if sufficient days exist to return one full to each member. In the absence of sufficient days to redistribute one day per member, the sick leave bank shall terminate with no distribution of days to anyone.

3. If the sick leave bank becomes inoperative for any reason, the School Board shall not be held responsible to anyone, enrolled now or eligible in the future, for any claims.

4. Upon termination of employment or withdrawal of membership from the bank, a participating employee shall not be permitted to withdraw his or her contributed days(s).

5. On July 1st of each year, members may donate any accrued, annual leave that is in excess of the maximum yearly accumulation amount to the sick leave bank.

F. Administration of Sick Leave Bank

The Executive Director of Human Resources, or designee, shall be responsible for the implementation and administration of the Sick Leave Bank policy and regulations.

Approved by Division Superintendent:	June 23, 1985
Revised by Division Superintendent:	June 9, 1992
Revised by Division Superintendent:	October 10, 1995
Revised by Division Superintendent:	January 25, 2002
Revised by Division Superintendent:	May 27, 2003

PERSONNEL**VOLUNTARY LEAVE DONATION PROGRAM****A. Introduction**

The Stafford County School Board directed the establishment of a voluntary leave donation program for employees. The purpose of the voluntary leave donation program is to provide economic relief for employees who are likely to suffer financial hardship because of a prolonged absence due to their own catastrophic illness or injury or that of an immediate family member. The Voluntary Leave Donation Program is not to be used in cases of short-term illness, such as routine maternity leave. Employees must be a member of the sick leave bank and exhaust all benefits under the sick leave bank before receiving voluntary leave donation benefits.

Participation as a donor in the Voluntary Leave Donation Program is strictly voluntary and solicitation for leave donation is not permitted.

The Voluntary Leave Donation Program initially shall be implemented as a pilot program for the 2003-2004 and the 2004-2005 school years. The School Board shall determine whether to continue the Voluntary Leave Donation Program upon completion of the two-year period.

B. General Provisions

1. Donations are not tax deductible.
2. The Voluntary Leave Donation Program is not subject to any grievance, administrative review, or any other type of procedural review by either donor or donee (recipient) employees.
3. The Voluntary Leave Donation Program shall operate on a fiscal year (July 1 – June 30) basis. Accordingly, leave voluntarily donated in a fiscal year to a recipient for a specific illness must be used by the recipient for that illness in that same fiscal year. Leave voluntarily donated in a fiscal year for a specific illness, but not used by the recipient for that illness in that same fiscal year shall be credited to the sick leave bank.
4. For payroll purposes, the cut-off date shall be the 15th of the month for all donations to be reflected in the next month's paycheck. Donations received as of the 10th of the month shall be applied to the period covering the 1st of the month through the 15th of the month and will be paid out in the next month's paycheck. Donations received after the 10th of the month shall be applied to the periods covering the 15th of the month to the end of the month and will be paid out in the paycheck following the next month or thereafter as needed.

5. Administration of the program will be coordinated by the Human Resources Department.

C. Definitions

1. A *catastrophic illness or injury* is one that incapacitates the employee or a member of the employee's immediate family and which creates a financial hardship because the employee has exhausted all accrued paid leave and sick leave bank benefits. The catastrophic illness or injury must be certified by a licensed physician as set forth in Section D.3.
2. An *immediate family member* is defined as the employee's natural parent, adoptive parent, foster parent, step parent, parent-in-law, spouse, natural child, stepchild, adoptive child, foster child, brother, sister, brother-in-law, sister-in-law, daughter-in-law, son-in-law, or any other relatives who are permanent residents of the same household.

D. Recipient Eligibility and Usage

Voluntary Leave Donation Program recipients must meet all of the following criteria to receive donated leave from a colleague:

1. Must be an employee eligible to accrue and use leave time.
2. Must be in need of donated leave due to his/her own catastrophic illness or injury or due to the need to care for a member of the employee's immediate family who is experiencing a catastrophic illness. The catastrophic illness need not be the same one for which the employee received benefits under the sick leave bank.
3. Must have written certification of catastrophic illness or injury from a licensed physician. The licensed physician's certification must state: the nature of the illness or disability; that the employee or immediate family member is totally unable to perform any work because of such illness or disability; the date the employee ceased work; and, approximately how long the employee will be unable to return to work. The phrase "any work" refers not only to the employee's position within the school division, but also to active work in a position outside the school division for which the employee receives wages. A licensed physician's note indicating that the employee will be permanently unable to return to work will not preclude an employee from receiving voluntarily donated leave. The school division, in its sole discretion, reserves the right to resolve any and all disputes involving the meaning of the phrase "any work."
4. Must have exhausted all accrued paid leave and sick leave bank benefits. There is no additional (elimination) waiting period required to receive donated leave payments once all sick leave bank benefits have been exhausted. If the employee or immediate family member suffers a relapse due to the same illness or disability which caused the exhaustion of sick leave bank benefits within thirty (30) calendar days of last receiving sick leave bank benefits, the employee shall be deemed immediately eligible

for voluntary leave donations as long as an updated licensed physician's certificate satisfying the requirements set forth in Section D.3. is submitted to the Human Resources Department and all 45 days of sick leave bank benefits have been exhausted. Employees who are not members of the sick leave bank or are ineligible to receive sick leave bank benefits may not receive benefits under the voluntary leave donation program.

5. Must not be receiving wages from the employee's position within the school division; wages earned from active work in a position outside the school division; and wages received from Worker's Compensation for the same illness for which the employee wishes to receive voluntarily donated leave benefits. The school division, in its sole discretion, reserves the right to determine applicability of this provision.
6. Must not have filed or intend to file a claim for Worker's Compensation for the specified illness or injury. Eligibility for voluntary leave donation benefits will be determined once the Worker's Compensation claim is resolved if the employee is still in need of voluntary leave donation as set forth in Section D.3.
7. Must agree in writing to accept voluntarily donated paid leave from colleagues.
8. Recipient employees shall be eligible to use voluntarily donated leave only in the fiscal year it was donated.
9. There is no maximum number of donors from whom an eligible employee may receive voluntarily donated paid leave days.
10. Voluntarily donated leave shall convert to sick leave for recipients.

E. Exclusions

1. Medical conditions resulting from the following will be excluded from eligibility for benefits under the Voluntary Leave Donation Program:
 - a. any occupationally-related accident or illness for which Worker's Compensation benefits have been awarded or is compensable by Worker's Compensation; or
 - b. injuries occurring in the course of committing a felony, assault, or any other type of crime.
 - c. injuries occurring in the course of driving under the influence of alcohol or illegal drugs.
2. Employees are ineligible to use donated leave during the period of any disciplinary suspensions.

F. Repayment

Eligible recipients shall not be required to reimburse leave days donated to them except in the following situations:

1. Compensation is received from another source, such as those set forth in Section D.5, for the same period of time the employee received voluntarily donated leave days; or
2. The Human Resources Office determines that abuse or fraud has occurred. The recipient shall be required to repay all used donated leave, and/or may be subject to disciplinary action, including termination.

If repayment is required, leave payment shall be calculated at the current salary rate of the recipient, not the donor. Repayment shall be made within thirty (30) days of notification to the employee. Reimbursed leave days will be returned to the original donor(s).

G. Donor Requirements

1. All full-time and part-time contracted employees who earn leave may donate leave under this regulation.
2. Employees may only donate leave that is actually earned. (For example, a new 10-month employee who has worked for the school division for one week is eligible to use 10 sick days and 2 personal days. However, that employee has not actually earned any leave days to give for donation purposes under this regulation).
3. Employees may donate accrued, actually earned sick, vacation, or personal leave. However, an employee must maintain a sick leave balance of at least ten (10) days. There is no minimum donor leave balance requirement for personal leave and vacation leave days. There shall be no minimum leave balance requirement for sick leave, vacation leave, and personal leave days for donations between immediate family members as defined in Section C2. Compensatory time may not be voluntarily donated by an employee to another employee.
4. Donations may be made in half or whole day increments only, except in the case of employees of the Transportation Department who may donate in ¼ day increments.
5. All donations must be directed to a specific employee.
6. An employee who donates leave may not have it returned except as specified in Section F and Section H.2.b.
7. In determining the number of days to donate, donors should be advised that donated days not actually used by the recipient for the specified illness shall be credited to the sick leave bank.
8. Participation in the Voluntary Leave Donation Program is strictly voluntary. All donations will remain anonymous, and donors must keep their participation confidential to avoid placing undue pressure on other employees.
9. An individual who voluntarily donates leave days pursuant to this

regulation does not automatically become a member of the sick leave bank even if those donated leave days are ultimately credited to the sick leave bank as set forth in Section G.7.

H. Procedural Provisions

1. Recipient Procedures:
 - a. On the Sick Leave Bank Benefit and Voluntary Leave Donation Acceptance Application form, employees shall indicate whether or not they would like to receive voluntarily donated paid leave from colleagues if they are still medically unable to return to work as certified by a licensed physician once all sick leave bank benefits have been exhausted. In the event that the employee is physically or mentally unable to initiate a request, an immediate family member, person holding power of attorney, or court appointed guardian/committee may file the request on behalf of the employee.
 - b. Employees in need of voluntarily donated paid leave shall not solicit donations from colleagues.
 - c. Employees may contact the Payroll Department after the 15th of the month to inquire as to whether they will receive a paycheck for the immediately following month.
2. Procedures for Donors:
 - a. Employees wishing to donate leave must complete the Voluntary Leave Donation Program Donor Form (see Appendix A) and submit it to the Human Resources Department.
 - b. If the intended recipient has indicated a desire not to receive voluntarily donated paid leave, a copy of the submitted Voluntary Leave Donation Program Donor Form shall be returned to the donor indicating that the leave is not needed.
 - c. The Department of Human Resources shall disclose the names of employees in need of voluntarily donated leave on the weekly Vacancy Announcement that is distributed to all worksites and placed on the school division's website. (Prior permission to disclose his/her name shall be obtained from the employee via the Sick Leave Bank Benefit and Voluntary Leave Donation Acceptance Application for a specific illness). Donor Forms must be received by the Department of Human Resources within the three-week period indicated on the Vacancy Announcement. If an employee in need of voluntarily donated leave opts not to have his/her name disclosed on the weekly Vacancy Announcement, he/she may still receive voluntarily donated leave as long as the Donor Form is received by the Department of Human Resources within three weeks from commencement of the employee's eligibility to receive voluntarily donated leave.
 - d. Donated leave will not appear as a separate line item on the monthly paycheck stub but shall be reflected as an adjustment to the donor's leave balance.

3. **Procedures for the Department of Human Resources:**
 - a. The Department of Human Resources shall process donations in order of receipt. If more than one donation is received in a single day, they shall be processed alphabetically by last name. Once received by the Department of Human Resources, donations are irrevocable. All Donor Forms shall be confirmed by the Payroll Department for validity. After being processed by the Department of Human Resources, the Donor Forms shall be forwarded to the Payroll Department for processing.

Approved by Division Superintendent: May 27, 2003

**APPENDIX A
VOLUNTARY LEAVE DONATION PROGRAM
DONOR FORM**

INSTRUCTIONS:

1. Participation as a donor is strictly voluntary. Solicitation for donations of leave time is not permitted.
2. Donors must maintain a sick leave balance of ten (10) days. There is no minimum leave balance requirement for vacation leave and personal leave days. In addition, there is no minimum leave balance requirement for sick leave, vacation leave, and personal leave days for donations between immediate family members as defined in Section C2 of Regulation 5-38.2. Donor Forms that are not in compliance with this requirement will be adjusted accordingly.
3. Donations must be made in increments of $\frac{1}{4}$ day or a full day except for Transportation Department employees who may donate leave in increments of $\frac{1}{4}$ day.

DONOR INFORMATION:

NAME: _____
Last First MI

SOCIAL SECURITY NUMBER: _____

ADDRESS: _____

HOME TELEPHONE NUMBER: () _____

WORKSITE: _____

NAME OF EMPLOYEE TO WHOM YOU WISH TO DONATE LEAVE? _____

DONATIONS:

NUMBER OF SICK LEAVE DAYS _____

NUMBER OF VACATION LEAVE DAYS _____

NUMBER OF PERSONAL LEAVE DAYS _____

I certify that I am voluntarily and willingly donating accrued, earned leave to a colleague who is either experiencing a catastrophic medical illness or injury or family medical difficulty. I understand that if my donated leave days are not used by the intended recipient for the illness donated, they will be credited to the sick leave bank except as noted in Stafford County Regulation 5-38.2 I understand that if my voluntarily donated leave days are ultimately credited to the sick leave bank, I do not automatically become a member of the sick leave bank. I further certify that I will keep my donation of leave confidential.

Signature of Employee/Donor

Date

RETURN FORM TO ASSISTANT DIRECTOR OF HUMAN RESOURCES